

**REMARKS:**

This amendment is submitted in an earnest effort to advance this case to issue without delay.

1. With respect to the restriction requirement, it is noted that claims 1-10 have been canceled without prejudice to applicant's right to claim the same or similar subject matter in a divisional application at a later date.

2. Claim 11 has been amended to define the heating and cooling means more specifically and to specifically recite a temperature sensor positioned for direct contact with bodies of meat in the vessel and connected with the means for selectively heating and cooling the vessel for controlling the temperature of the vessel during the agitation of the bodies of meat therein.

Claim 14 provides that the temperature sensor extend through the wall of the vessel. Claim 15 provides that the temperature sensor has a member which can pierce the body of meat and claim 16 provides that the member capable of piercing the body of meat has a plurality of sensing regions along the length thereof for providing an average temperature.

Claim 17 has been amended to be independent and recites a massager with a massaging drum and a paddle together with the programming means for raising the temperature of the bodies of meat to an elevated temperature while they are massaged.

Claims 18-20 also recite the temperature sensor described with respect to claim 13-15.

3. The newly submitted claims are free from any informalities under 35 USC 112 and from the claim objection applied to claim 12. Applicant is claiming the combination with a refrigerating unit and a heating unit as well as means to convey the fluids.

4. A new abstract has been supplied without the liquid versatility noted by the Examiner.

5. The new claims are not anticipated by WO 96/36233 (N). Claims 11 and 14-16 all require the temperature sensor positioned for direct contact with the bodies of meat and no such temperature sensor is found in these claims.

Claim 17 calls for a massager with a programming means for raising the temperature of the bodies of meat in the massaging drum to a predetermined elevated temperature while massaging the bodies of meat with a controlled torque of the rotary panel.

There is not a word in WO 96/36233 as to any such programming means.

Claims 18-20 distinguish in the same respect as claim 17 but also with respect to the temperature sensor. There is no anticipation of any claim in the case by WO 96/36233.

6. The claims in the case have been rejected as being obvious from WO 96/36233 with HORN et al, patent 6,105,490 (C). HORN et al does disclose a jacket for a meat processor which can be supplied with a fluid. However it does not teach or suggest a temperature sensor as claimed nor the programmer as claimed so that neither claim 11 nor claim 17 can be considered as suggested by a combination of HORN et al with WO 96/36233.

The Examiner has relied on the BURKHART patent 4,120,981 (A), relating to a cooker for a temperature sensor 54 or 54'. Applicant respectfully submits that BURKHART must be considered to be nonanalogous art under the doctrine of *In re Wood*, 202 USPQ 171. A reference is analogous art and properly cited if it is in the same field as the invention, or if it attacks the same problem. Clearly BURKHART is not in the same field as the invention which is the treatment of meat with a liquid so that there is binding between the liquid and the meat. Furthermore, the reference does not attack the same problem which is the sensitivity of the binding action to the precise temperature of the meat when the reaction of the body of meat with the liquid is considered.

BURKHART, therefore, is not analogous art and the argument that the cooking in BURKHART is an analogous treatment of bodies of meat, simply does not stand up to scrutiny or logic. The invention here is directed to a stage in the preparation of meat significantly prior to anything which is related to cooking and equipment for effecting a liquid bind to the muscle of chunks of meat certainly would not be considered sufficiently close to

cooking apparatus to warrant that a worker in the art with which the invention is concerned would look to the cooking field for a solution of an entirely different kind of problem than those which arise in the cooking field.

Furthermore, even if BURKHART was analogous art and could be combined in some obvious way with HORN et al and WO 96/36233, neither the computer control of claim 17-20, nor a temperature sensor positioned for direct contact with bodies of meat would be present. All that is said about the members 54 and 54' is to be found at column 3, lines 58-column 4, line 22 and column 5, line 55 ff. There is no teaching there to the effect that the sensor can contact a body of meat in the stage of binding with a liquid in conjunction with the heating or cooling of a jacket of a massager in which those bodies of meat are to be found.

Claims 11 and 14-20 are thus deemed to be allowable.

Furthermore, a temperature sensor capable of piercing a body of meat in a massager (claims 15 and 16) or having a plurality of sensing regions (claim 16) are not suggested by the art.

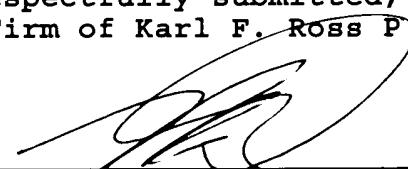
DE 3 119 496A (O) does indeed have a temperature probe which can pierce the meat but that structure in no way can be incorporated into a massaging drum and thus the use of that reference cannot be relied upon.

Finally, applicant notes that not one of these references has the programming means for raising a temperature of the bodies of meat while massaging them at a controlled torque of a rotary

panel and thus claims 17-20 should be allowable on that ground as well.

Favorable reconsideration is urged.

Respectfully submitted,  
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Enclosures: Abstract